

**REMARKS**

Entry of this amendment and favorable reconsideration and allowance of this application are requested.

**I. Discussion of Claim Amendments**

By way of the amendment instructions above, each of the independent claims has been revised so as to emphasize that the "ends parts" of the cable are *knotted* together so as to form a closed loop. According to one embodiment, a length of the surgical cable is positioned around the parts to be tied together such that the end parts of the surgical cable (which may or may not have an eye) are knotted together to form a closed loop. (See page 3, lines 12-18 and page 4, lines 3-11). According to another embodiment, an endless loop of the surgical cable is provided by splicing ends thereof together. The endless loop of the surgical cable may then be flattened and positioned around the parts to be tied together so that the end parts of the flattened endless loop can be knotted together. (See page 3, lines 19-24 and page 4, lines 3-11).

The dependent claims have been amended for purpose of conformity. Claim 19 has been amended so as to address the informality helpfully noted by the Examiner. Claim 21 has been canceled as redundant. Claim 24 is new and based on the disclosure appearing at page 3, line 20. (See also claim 16.)

Accordingly, following entry of this amendment claims 1-2, 5-10, 13, 15-19 and 22-24 will remain pending herein. Favorable action on the merits of such claims is therefore requested in light of the comments below.

**II. Applicants Interview Summary**

The undersigned thanks Examiner Araj for the time and courtesy during the telephonic interview of October 5, 2009. It is believed that the discussion during the interview materially advanced prosecution of this application.

During the interview certain draft claims were discussed which are identical substantively to those presented above. It was understood that such claims would not be entered if presented in response to the "final" Official Action dated June 24, 2009 as they allegedly raised new issues requiring further search and/or consideration.

### **III. Request for Continued Examination**

The present amendment is being filed concurrently with a formal Request for Continued Examination (RCE) under 37 CFR §1.114. Accordingly withdrawal of the "finality" of the June 24, 2009 Official Action is in order so as to allow entry and consideration of the amendments and remarks presented herewith.

### **IV. Response to Substantive Issues**

In the final Official Action dated June 24, 2009, the Examiner with some additional explanation has maintained his rejection of all claims based primarily on the previously cited Bevan et al (USP 5,725,582) alone or in combination with Crouch et al (USP 4,788,814). Specifically, pending claims 1, 5-7, 13, 15 , 17 , 19 and 21 remain rejected as anticipated (35 USC §102(b)) by Bevan et al alone, while claims 2, 18 and 23 remain rejected as obvious (35 USC §103(a)) by Bevan et al alone. Claims 8-10, 16 and 22 remain rejected as obvious (35 USC §103(a)) over Bevan et al in view of Crouch et al. As will become evident from the following discussion, none of the applied references of record is appropriate to negate the patentability of the presently claimed invention.

The Examiner has helpfully provided an annotated drawing of Bevan's Fig. 5 to explain his rejections. As now understood, the Examiner considers the end 25 which is positionally fixed to the cleat 38 and the end looped around the hook portion 32 of Bevan to be the same as the "connected end parts" of the cable defined by the prior pending claims.

In response, applicants have amended the claims so as to emphasize that the "end parts" of the surgical cable are **knotted** together so as to form a **closed loop**. A device is inserted between the knotted end parts of the closed loop and the bone parts to be fixed. The inserted device is then twisted. By this twisting of the device, a torsion force is exerted on the end parts and the cable is brought under a tension required for tying together the objects. The tensioned cable is locked against the influence of forces acting counter to the exerted torsion force thereon.

Therefore, it would be inconsistent (and reversible error) to continue to reject the claims based on Bevan alone or in combination with Crouch. Specifically, the Examiner's interpretation of the Bevan device as having the end 25 which is positionally fixed to the cleat 38 and the end looped around the hook portion 32 of Bevan being the same as the "connected end parts" of the cable defined by the pending claims herein is entirely inconsistent with such end parts being **knotted** together to form a **closed loop** of the surgical cable. Simply stated, Bevan does not disclose or suggest at all the concept of knotting together the end parts of a surgical cable as is now defined in the pending claims herein. In fact, the Examiner's interpretation of the Bevan device confirms that no disclosure exists therein of knotted end parts.

Therefore, in view of the amendments and comments presented above, applicants suggest that the rejections advanced under 35 USC §§102(b) and 103(a) are inappropriate against the presently pending claims and hence must be withdrawn. Such favorable action is solicited.

**DIRKS et al**  
**Serial No. 10/772,413**  
October 6, 2009

**V. Fee Authorization**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

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